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ABSTRACT

Agricultural labor and management relations in Arizona were reviewed from the time of the passage of the Arizona Agricultural Relations Act in May 1972 until the ruling by the U.S. Supreme Court in August 1979 that the act was constitutional. Viewing the act as antilabor, the United Farm Workers (UFW) Union fought its passage. Church and Indian officials in the State also took part in the controversy surrounding the act. The period from 1973 through 1974 was marked by conflicts between the teamsters and the UFW; inconsistent court actions with respect to interpretation and enforcement of the act; and strikes, boycotts, and picket lines. These controversies continued into 1977, at which time greater press coverage was given to the issue of illegal Mexican aliens working in Arizona fields. During the latter half of 1977, farm labor activity was taken up by the Maricopa County Organizing Project (MCOP), a nonprofit corporation. Discontent in the fields increased into 1978, and eventually controversy erupted between the MCOP and UFW. Finally, in 1979 the U.S. Supreme Court upheld the constitutionality of the Arizona act; however, the press coverage of labor and grower reaction to the Court's decision indicated that the decision seemed to have left more questions unanswered than it actually solved. (MN)

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THE ARIZONA FARM LABOR LAW:

IN THE FIELDS AND IN THE COURTS

Harold C. White
William Gibney

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THE ARIZONA FARM LABOR LAW: IN THE FIELDS AND IN THE COURTS

A Review of the Arizona Farm Labor Law
and a Review of Industrial Relations
in Arizona Agriculture

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PREFACE

This monograph presents a review of agricultural labor-management relations in the state of Arizona from the passage of the state act covering these relations until the ruling of the constitutionality of that act by the United States Supreme Court.

Agriculture has always played a major role in Arizona. Much is owed by the people of Arizona and the entire United States to both the growers and farm workers.

The subject of industrial relations is an emotional issue. It is highly complex and concerns economic, technical, legal, and social issues.

It has not been our intention here to take sides, to defend or attack a particular party. We have attempted to present the facts as we have found them. Our sources have been limited almost exclusively to newspaper reports. We recognize the hazard in such an approach, but believe a useful overview is provided.

Our purposes are these: to review the history of labor relations in Arizona agriculture over approximately a ten-year period; to identify the issues of labor relations that have been indicated by the parties; to identify those involved in the industrial relations issues; and to show the influence of legislation on the parties and issues.

Harold C. White
William Gibney
Tempe, Arizona
August, 1980

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THE ARIZONA FARM LABOR LAW: IN THE FIELDS AND IN THE COURTS

Harold C. White and William Gibney

The Arizona Agricultural Employment Relations Act was passed in May, 1972, amid much controversy. Feature articles appeared in the press; conferences and public gatherings were held to discuss the issues; studies were conducted by government, civic and religious groups; and strong lobbies were conducted by both farm growers and organized labor. Furthermore, his signing of the act into law was the motivating force behind the recall movement of Governor Jack Williams.

After several years of debate, the United States Supreme Court reversed a lower federal court and ruled that the Arizona Agricultural Employment Relations Act is indeed constitutional.

National policy recognizes the rights of employees to join labor unions and to bargain collectively with their employers. However, under federal law, the "agricultural laborer" is specifically excluded from coverage.[1] Such exclusion does not prevent farm workers from joining a labor union nor does it prevent growers from bargaining, but the parties are not subject to the supports of limitations of federal legislation.

The federal law was created, in part, to balance the bargaining power between labor and management and to provide a peaceful means for employees to determine whether they wished to be represented by a labor union. The characteristics of a work group that tend to weaken its ability to organize and bargain include low formal education, limited job skills, high ratio of worker supply to demand, low average income, and temporary employment. These characteristics have been substantially descriptive of the farm labor work force.

THE ARIZONA AGRICULTURAL RELATIONS ACT

From time to time, bills to include farm workers have been unsuccessfully introduced at the federal level. In 1972, after two years of deliberation, the Arizona legislature took action to fill the void left by the federal law. The Arizona Agricultural Employment Relations Act was the first in the nation to specifically cover agricultural labor-management relations. Three other states have followed Arizona: Idaho and Kansas have acts substantially identical to the Arizona law and the much publicized California law was passed in 1975. At least two other states had earlier passed industrial relations legislation which included farm workers along with other categories of workers: the Wisconsin Employment Peace Act enacted in 1939, which has been little utilized for agricultural organization; and the Hawaii Employment Relations Act passed in 1945, which has contributed to the organization of the bulk of agricultural workers in that state.

Aspects of the Act

In a review of the Arizona act at the time of its passage, with comparisons to the federal law, the following observations were summarized:[2]

Issues

The Agricultural Employment Relations Board and the courts will undoubtedly be called upon to decide the following issues:

- The period of employment required for eligibility to vote in a representative election.

.Housing provided workers as an item of negotiation.
.Time of work, size and make-up of crews, assignment of work, and type of equipment or machinery used as items of negotiation.
.Hiring, suspension, discharge, and transfer as items of negotiation.
.Definition of pay for work not performed.
.Limitations on and rights to boycott.
.Time period to conduct and certify recognition elections.
.Times when certification elections can be called.
.Access of union organizers to the farm worker living quarters that are provided by the grower.

Advantages for the Union

Advantages of the labor law for labor unions; protections not assured in the absence of the law:

.Right to recognition elections.
.When certified, the right to bargain on wages, hours, and certain working conditions.
.Protection of organizers during the organizing campaign and of members after certification.
.Right to bargain for a grievance procedure.

Limitations on the Union

Limitations on the union relating to practices the United Farm Workers Union currently utilizes:

.Right to strike is severly limited as to time and circumstances.
.Right to boycott is severely limited.
.Penalties are imposed for certain strikes and boycotts.

Union Criticisms

The requirements in the law that the UFW has most frequently criticized are:

.Recognition elections.
.Contract certification elections.
.Strike votes.
.Prevention of hiring-halls.

Both recognition and certification elections are typical in most industries, as is some form of membership approval for strikes; secondary boycotts are illegal for industries covered by federal law; the hiring-halls are generally limited in usage and allowed only in specific circumstances. Therefore, the UFW has been most critical of practices required in the Arizona law which are, in fact, commonly found in other industries.

On the other hand, the UFW and any other union choosing to organize farm workers in Arizona have reason to be concerned about implications of the law. Wording appears to be so selected as to make it potentially impossible for a union to organize and bargain effectively....

It will remain to be seen if the board and the courts will administer and rule in such a manner as to make a reality the Declaration of Policy that Arizona agricultural workers can, if they desire, organize and bargain.

SUPPORT AND OPPOSITION

Union Involvement

Organized labor fought passage of the Arizona law, viewing it as anti-labor. A month prior to the passage of the bill, the political editor for the Arizona Republic wrote:[3]

> Stripped of its verbiage, the bill...is an attempt to protect the growers from labor troubles while making it exceedingly difficult for workers to organize any effective bargaining unit.

> All the House Republicans, except (one) voted for the measure. Eight Democrats, mostly farm-oriented, joined the Republicans to vote for the bill....
>
> The fact is the bill already is tainted.

The condemnation appears especially strong in light of the conservative position associated with the Phoenix newspapers.

Since passage of the law, the United Farm Workers Union (UFW) has ignored the act in practice and, in fact, challenged its constitutionality only two days after the act became law. On the other hand, the majority of growers and their representatives have been consistently supportive of the act, having lobbied on its behalf during legislative debate and having supported it over the years as it moved through the federal courts.

The ruling by the U.S. Supreme Court on this landmark legislation makes this an ideal time to review farm labor activity and legislation in Arizona.

With the passage of the act, the United Farm Workers led the recall movement against the governor. The recall received support from leaders of various labor organizations throughout the state.[4] The UFW charged that the governor rushed the signing of the bill and that he refused to meet with Cesar Chavez, UFW president. The governor responded that Chavez had never requested a meeting. National attention was focused on the recall when Chavez conducted a "fast of love" for twenty-four days, stopping only when ordered by his physician. While endorsement was not given directly to the recall, support was given to the UFW through Arizona visits by George McGovern, Democratic party presidential nominee, Loretta Scott King, widow of Reverend Martin Luther King, and Joan Baez, well known folk-singer.

The recall move eventually failed. Sufficient signatures were submitted to the Secretary of State in March, 1973, but many were challenged. Ultimately, the court ruled the signatures were valid, but not until the governor's term of office had expired.

The UFW refused to recommend names, as requested by the governor, for the agricultural labor board created to administer the act. The union reported that it did not believe it could perform effectively in a minority position on the board; additionally, the union did not want to do anything that would give credibility to the law. By mid-July, the seven-member board had been appointed, including two union representatives as required by law. One union representative was a member of the Teamsters union, which represented approximately 75 percent of the organized farm workers in Arizona.[5]

Outside the labor movement, support was continuing for the UFW. The national Democratic Party endorsed the UFW lettuce boycott,[6] and several religious leaders spoke in support of the UFW and its causes.

Church Involvement

Shortly after the passage of the act, the Arizona Ecumenical Council, with membership of various religious denominations, commissioned a fact-finding committee to study the conditions of farm workers and the importance of organized labor to the workers. The committee, created May 31, 1972, was composed of lay persons representing various denominations and was chaired by a protestant minister. They were given thirty days to complete their study and make a report. The committee acknowledged that time was inadequate for a comprehensive study and requested that the report be considered preliminary only.

Although the Ecumenical Council had announced that the report would be made public, the report was never officially

released, and evidence showed a strong union orientation in the creation of the committee. However, the committee report was not unanimous in support of organized labor. The report indicated, for example, that not all farm workers interviewed were critical of their wage and working conditions, and even among those who were dissatisfied, only a small percentage indicated a desire to correct their conditions through a labor union.[7] Also unpopular with some of the council was the statement of its own executive director that, as ex officio member of the committee, he had received more cooperation from growers than from the UFW.[8]

The study group recommended that minimum wages for all farm workers should be increased to at least the federal poverty levels; and that benefits (unemployment insurance, sick pay, retirement benefits, insurance, vacation pay, etc.) be made available to all farm workers so that they might join the "mainstream of economic life." The committee found that unskilled farm workers generally earned from $2,000 to $5,000 annually, although some skilled workers such as those involved in melon-selecting for harvesting, might earn $15,000, and full-time farm workers might earn up to $12,000. The report encouraged government agencies to enforce health and safety standards, and to provide adequate social services for farm workers. The official publication of the Catholic Diocese of Phoenix encouraged unions and growers to cooperate with the terms of the act and advocated attempts to change the act in support of the farm workers.[9]

Tribal Involvement

Adding to the controversy, the chairman of the Colorado River Indian Reservation in a letter to Cesar Chavez, requested that the UFW not attempt to organize farm workers on the reservation, pointing out that most of the income for the tribe came from the land and it was their desire that nothing be done to disrupt the harvest and the relationships developed with lessees, both Indian and nonIndian. The tribe was interested in developing an additional 55,000 acres for agricultural use. Finally, they said, "We would strongly resist anything that would make these efforts more difficult and therefore reduce our ability to become self-reliant."[10]

LABOR UNION ACTIVITY: 1973

Little labor union activity was reported in the fields in Arizona from the effective date of the act in August, 1972, until the following spring. In January, 1973, a UFW official raised the possibility of a strike and boycott against major lettuce growers. This statement followed an announcement that the Teamsters union and 170 vegetable growers had renegotiated the remaining two and one-half years of a five-year contract.

Teamsters vs. UFW

Conflicts over organizing farm workers had existed between the United Farm Workers and the Teamsters since the early 1960s. A UFW official charged that the new agreements were "sweetheart contracts" between the Teamsters and growers, and said that the contracts represented "substitution of grower choice for worker choice."[11] The renegotiated contracts were reported to cover 30,000 field workers in several western states, primarily California. Terms included immediate pay increases of 11 percent, with another 10 percent in two increments over an eighteen-month period; a no-strike, no-lockout agreement; unemployment benefits of up to $75 per week; grower contributions of ten cents an hour for a pension plan; exclusion of foremen and subforemen from union membership; extension of health plan benefits to dependents; and a seniority clause assuring rehiring preference

for persons who had worked thirty days for a grower.

By spring, 1973, the UFW was reported to have struck all grape growers in the Coachella Valley in California who had signed contracts with the Teamsters. By April the Teamsters had signed fifteen growers representing approximately 85 percent of the grape workers with whom the UFW had just completed a three-year contract, while the UFW had been able to renew only two of the contracts. As UFW contracts expired, growers increasingly signed with the Teamsters. As a consequence, the UFW resumed boycotting lettuce and table grapes not handled by UFW members. The storewide boycotts continued until the following spring.[12] Charges were exchanged between the two unions over which was favored by the workers. The UFW claimed that over 90 percent of the Coachella Valley grape workers would vote for the UFW if provided the opportunity; the Teamsters stated that the growers had requested an election to determine the workers' choice, but that the UFW refused, preferring to strike and boycott.[13]

The violence in the California fields at the time was stated by one observer to have been the most extreme since the strikes of the 1930s in the cotton fields.[14] Two UFW members were killed in conflicts with Teamster organizers. Cesar Chavez told UFW members to ignore the court order against mass picketing; eventually 3,500 UFW supporters were arrested and sent to jail.[15] Hostility between the parties was not easily forgotten. In an exchange the following year, the president of the Teamsters union Frank Fitzsimmons placed blame for the violence on the UFW, and George Meany, president of the AFL-CIO of which the UFW was an affiliate, charged that the blame belonged to "the Teamsters' imported goons."[16]

In Arizona, the UFW struck the D'Arrigo Bros. Ranch near Eloy, picketing the property. The UFW had a contract which had expired the previous October. When the contract was not renewed after an extended period, the UFW members walked off the job and were replaced by non-UFW workers.[17] It was charged that sixty to eighty demonstrators forced workers from the fields, used bull horns to intimidate workers, and impeded traffic. The firm obtained a temporary restraining order against the UFW through the Pinal County Superior Court directing the union to cease mass picketing and violence, cease interference with the safe use of streets and roads, and cease trespass and interference with employer property. Under the order, a limit of two pickets was allowed at any entrance. Ultimately, the lettuce was harvested without a contract being signed and without a request for a representative election to the board. A pattern was established that would be followed frequently: The UFW would ignore the existence of the act; then the growers would proceed to the courts to obtain injunctive relief in preference to means available through the agricultural labor board.

COURT ACTION

At the completion of 1973, the first year following the passage of the act, three charges had been filed with the Arizona Employment Relations Board.[18] The board acknowledged that court action provided more prompt relief for the growers than did board procedures. The practice in which growers sought court relief, thereby ignoring the board, continued until 1975, when, at the board's encouragement, the growers increasingly sought initial relief through the board. No attempt was made by the UFW to utilize provisions of the act. The board indicated the union's approach had consisted of mass picketing, bull horns to encourage workers to leave the fields, and on occasions "excursions" by pickets into the fields. It is noteworthy that for the year the UFW had little success in obtaining contracts.

During the June and July grape harvest in Maricopa County, as many as 300 pickets were reported at various farms: El Dorado,

Goldmar, Boswell, Bodine, and Dispoto. The majority of the growers obtained temporary restraining orders through the courts, while Boswell farms chose to ignore the pickets. Harvesting was completed using nonstriking workers with little interference in operations except at Dispoto where work delays were long enough that rains destroyed the grape crop, which was salvaged as raisins.

Inconsistencies

Some apparent inconsistencies are found among the various courts in their attempt to secure order.[19] A pact between the UFW and Centennial Farms, Inc. near Buckeye west of Phoenix had expired in April. The union struck when the grower refused to negotiate. Judge Marilyn Riddel issued a state court order on behalf of Dispoto, owner of Centennial Farms. UFW organizers were limited to visiting farm labor camps between 4:30 p.m. and 10:00 p.m. with two organizers at a time. However, U. S. District Court Judge Carl A. Muecke, at approximately the same hour, rescinded the Riddel order by allowing twenty-five organizers on grower property up to an hour at a time. Dispoto accused the UFW of violence and stated that one hundred tenant workers had not picked grapes for several days, resulting in $100,000 in lost grapes. Among witnesses in support of the UFW denial of violence was a lieutenant of the sheriff's office.

Judge Riddel was also involved in a case brought by Bodine Produce Co., a grape grower near Glendale. The judge upheld a June restraining order issued shortly after the union began picketing.[20] The grower claimed that the union illegally threatened nonunion laborers at the vineyards and had trespassed on company property. The court order limited the number of pickets to twenty on each road surrounding the vineyards, with a maximum of five pickets to a group, and one hundred feet between groups. Bull horns were not permitted within two hundred feet of workers and three hundred feet of buildings.

Related issues appeared before Maricopa County Superior Court at the same period.[21] Judge Charles L. Hardy took under advisement a dispute between Heggblade-Marguleas-Tenneco growers and the UFW. At Rancho El Dorado near Litchfield Park, a three-year contract had expired in April. The grower charged that the UFW violated a sixteen-part court order issued in May prohibiting interference with the "free use, occupancy, or enjoyment of plaintiff's premises, its agents, employees, customers, guests or invitees." Hardy found the UFW in contempt of court for violating the court order limiting the number of pickets at the farm. A fine of $1,000 for the union and thirty days in jail for each violator was to be suspended if the union and its officials complied with the order in the future.[22]

Judge Howard F. Thompson presided in a show-cause hearing in which both the UFW and Goldmar Arrowhead Ranch sought to limit the activities of the other in an UFW organizing drive.

Writer John English closed a review of court labor cases with a thoughtful question, "Why has the Teamsters union maintained a hands-off attitude here (in Arizona) when they were successful in unseating Cesar Chavez and his union in California?" The lack of disputes between the UFW and the Teamsters was noted with appreciation by the Arizona agricultural labor board. The board concluded that the lack of Teamster activity, combined with fewer and smaller growers, were the reasons that "disputes here (in Arizona) have not contained the violence found in California."

STRIKES, BOYCOTTS, PICKETING: 1973-1974

Safeway Boycott

The Arizona act was intended to limit the boycott as practiced by the UFW. In May, 1973, the UFW announced that it would boycott all of Safeway's Arizona stores until the chain pressured growers to hold representative elections instead of hiring Teamster members. In June,

Maricopa County Superior Court Judge Charles Hardy declared the boycott illegal; however, the UFW was permitted to request of customers that they not purchase Teamster processed grapes and lettuce. By July, Safeway requested that the UFW be held in contempt for violation of the court order. In its defense, the UFW said that restrictions on their conversations and wording on handbills was against their rights of freedom of speech.[23] Subsequently, Judge Hardy amended his order, ruling that portions of the Arizona agricultural act were unconstitutional in restraint of freedom of speech and he therefore allowed the UFW to request that customers not shop at Safeway, as long as the requests were made orally on a person-to-person basis. As a consequence, Safeway came to the Arizona board. The board's General Counsel attempted to intervene, but the application was denied. The board answered, in part, that the U. S. Supreme Court had determined that a combination of picketing and discussion was beyond the definition of freedom of speech under the Constitution. However, the court stated that no legal argument could change the decision rendered.[24]

A suit was filed in federal court the previous year to have the Arizona Agricultural Employment Relations Act declared unconstitutional. The UFW had not pursued the issue. However, with the board action in the Safeway boycott, the UFW determined that the time was appropriate. The issue came before U.S. District Court Judge Carl A. Muecke.[25] Board action continued until the following spring when Superior Court Judge Edward W. Hughes issued an order that the board was to halt proceedings concerning charges of unfair labor practices against the UFW on behalf of Safeway.[26]

Support for UFW

During this period of 1973, the UFW was conducting organizational strikes in California at the Coachella Valley, Arvin-Lamont, and Delano farms--generally with little success. It was reported that the strikes failed to halt harvesting. Estimates were that UFW membership had declined during the strike from 40,000 to 10,000 members.[27]

However, in April, 1974, the UFW gained support from other groups. Truckers for Justice, a Tucson-based group of five hundred truckers, agreed not to haul produce that had not been harvested by UFW workers. Chavez stated, "Most trucks that pick up produce are not Teamsters." In return, the UFW agreed to back the truckers' demands for a fuel price rollback, speed limit increases, and audit of oil companies.[28] Shortly afterward, the UFW agreed to drop its storewide boycotts, focusing boycott efforts on lettuce and grapes only. In exchange, the AFL-CIO agreed to support the boycott. Unions within the AFL-CIO had been reluctant to endorse the storewide boycott because of the concern of harming union members who worked in the supermarkets.[29]

Picketing the Growers

These actions received negative response from the Teamsters union. A letter from Frank Fitzsimmons to the presidents of the AFL-CIO affiliated unions stated in part, "If you decide to support that boycott in any way, this would naturally mean that you are taking a position against the International Brotherhood of Teamsters....In the future our cooperation with your organization will be judged accordingly."[30]

By spring, 1974, picketing of grape fields had resumed in Maricopa County. In an attempt to avoid confrontations that had occurred in the past between pickets and nonstriking workers, and between pickets and sheriff's deputies, the Maricopa County Sheriff announced a restructuring and reassignment in his office. Additionally, at the request of the sheriff, Superior Court Judge Charles Hardy was named to "advise the sheriff and coordinate his handling of court orders on strike matters." The situation remained relatively peaceful in the county.[31] As fall approached,

disruptions were reported near Yuma. In a Superior Court order, pickets were limited to fifty around any one farm. When an estimated 250 pickets had formed in a group, fifty-eight were arrested in what was described as a "peaceful" situation. A UFW representative said that the pickets had been instructed to stay in groups of fifty, and had done so until they bunched together for mutual support when deputies arrived. The sheriff's office charged that the pickets lacked leadership. As a result of the picketing violation, Judge John A. McGuire enjoined the UFW from further picketing until a hearing could be held. The order read: "There have been numerous acts of violence and threats, and the danger of damage to persons and property is grave." A union leader stated that the union would obey the temporary restraining order.[32]

Elections

In its annual review, the Arizona Agricultural Employment Relations Board reported increased use of board procedures. The first recognition election, filed by the Teamsters union, was held in November, 1974; during the late spring, 1975, two more elections were held, one by Teamsters petition and one by a Laborers union petition. General Counsel investigated sixteen charges of unfair labor practices, resulting in eleven complaints issued and set for hearing, and the securing of two restraining orders. Preparation continued for the suit filed by the UFW challenging the constitutionality of the act. In March, 1979, William Gibney was appointed by the governor as the new General Counsel for the board.[33]

A Louis Harris poll in October reported consumer response to the UFW boycott. Twelve percent of the respondents said they had stopped purchasing table grapes, 11 percent that they had stopped purchasing lettuce, and 8 percent stopped purchasing Gallo wines.

THE CALIFORNIA ACT

After several unsuccessful attempts, the California legislature passed its agricultural labor relations act, which became effective on September 2, 1975. The UFW stated that the California act, with minor exceptions, was their version of a model law. In contrast to the rather low activity of the Arizona board, the California board became highly involved immediately, due to the greater acceptance of the act by the UFW, the greater jurisdictional conflicts between the Teamsters and UFW, and employment of agricultural workers, which in California was several times that of Arizona.[34]

In the first five and one-half months of the California law, over four hundred representative elections were held, with 45,000 votes cast. The UFW and Teamsters were together on the ballot 125 times. Overall, the UFW won 198 elections, the Teamsters 115; eighteen elections were split among three other unions; and thirty elections resulted in a vote for no union. Most of the elections were on farms where labor union contracts had already existed. Within the first month of the act, two hundred unfair labor practice charges had been filed.[35]

Criticism

However, the volume of activity was highly threatening for the California board. The board was criticized as being both overwhelmed and undertrained. The UFW led a sit-in at the governor's office to draw attention to charges that farm workers had been fired by growers because of their union activities. The board acknowledged that it was unable to keep up with the complaints.[36] By February, 1976, the board had exhausted its allocated funds. Although money was eventually provided, initially the California Senate lacked the votes needed to approve emergency funds. Approximately one hundred fifty board employees were laid off.[37]

The union was not the only voice critical of the California board. In Phoenix, a meeting of the National Council of Agricultural Employers was held at which California growers invited Arizona growers to join them in a move for federal agricultural labor relations legislation. One speaker stated that the California board was a "mess" with conflicting decisions being made by the board.[38]

In general, however, the only issue in the California act over which either the UFW or the growers appeared to have any serious objection concerned access of the union organizer to workers on the grower's property: The union wanted more freedom of access, and the growers wanted more restrictions.[39] The UFW was sufficiently satisfied with the California law that it led, although unsuccessfully, a campaign in the 1976 November election to reenact the law as an initiative statute, thereby requiring a vote of the electorate for any changes in the law, effectively putting it beyond the action of the legislature.

THE ARIZONA ACT

By contrast, the UFW continued its campaign to have the Arizona law ruled unconstitutional. UFW president Cesar Chavez argued in court that the law dealt a blow to wages, benefits, and morale of the farm workers. As support for his statement, Chavez indicated that union organizing in Arizona had not kept pace with similar organizing efforts in California; UFW membership in Arizona actually declined following passage of the Arizona law. Under cross-examination, Chavez did acknowledge that the UFW had not tried to organize in Arizona since the law went into effect. Indeed, the UFW had lost ground in Arizona. By January, 1976, the UFW had only one of the six contracts that were in effect in August, 1972 when the act became effective.[40]

The UFW was highly critical of the election procedures under the act. There is no requirement that elections be held at the peak of the hiring season as desired by the UFW. Under the California act, preferred by the UFW, a scheduled number of workers must be employed before an election can be held, and the election is required seven days following a petition.[41]

For some time, forces had been at work to give special support to the United Farm Workers in its organizing campaign. In 1973, Frank Fitzsimmons of the Teamsters and George Meany of the AFL-CIO had met in an attempt to resolve the often violent jurisdictional battles that had occurred between the Teamsters and the UFW. During the summer of 1973, the Teamsters agreed to abandon efforts to organize the Delano, California grape fields. Fitzsimmons wrote to thirty California grape growers informing them that collective bargaining agreements signed between them and the Teamsters during the previous two weeks were invalid.[42]

Within a short time, however, it was rumored that the growers were threatening to sue the Teamsters union. Not long after that, Fitzsimmons released an announcement that the Teamsters would honor all of their contracts with the growers, "to keep our obligations morally as well as legally insofar as the farm workers are concerned."[43]

UFW-TEAMSTER AGREEMENT

It was nearly three and one-half years, plus more violence and controversy, before a jurisdictional agreement was reached between the UFW and the Teamsters. It was determined in March, 1977, that the UFW would have jurisdiction over field workers, and the Teamsters would retain jurisdiction over employees in commercial packing sheds and off-farm crop transportation. The agreement covered thirteen western states, including Arizona and California. The Teamsters agreed to withdraw from all contracts as they expired, with the exception of those first negotiated prior to 1970. The agreement between the unions was to run for two years; after that time "good faith negotiations for a national

agreement will be undertaken." Fitzsimmons called the signing a "momentous occasion." Chavez indicated that the UFW had not received everything desired, but that he was, nonetheless, "extremely pleased" and "after ten years, both of us are fed up with fighting each other."[44]

During the 1976-1977 fiscal year, the Arizona board reported that three unfair labor practice charges had been filed, more than twenty labor disputes had been settled without charges being filed, and one election had been scheduled, but not held. The board observed that the jurisdictional agreement between the UFW and Teamsters was "creating a state of confusion for many workers as many employers still have Teamster contracts which are no longer being effectively serviced by the Teamster organization. As a result, independent unions are springing up." Communication had been established with the California Agricultural Employment Board concerning jurisdiction over charges filed by the UFW.[45]

CHURCHES AND THE UNIONS

Within the Arizona religious community there had been support for the agricultural unions, especially the United Farm Workers, for a number of years. For example, in 1973, the year following the passage of the Arizona act, twenty-five Phoenix area clergy met under the auspices of the Arizona Ecumenical Council. The consultant to the United States Catholic Bishops' Committee on Farm Labor spoke in strong support of the farm workers' labor movement, with obvious preference for the UFW over the Teamsters. Phoenix religious representatives said that most of the support for the UFW came from Catholic priests in south Phoenix, which had a high proportion of Mexican-American residents.[46]

Support for the union continued. In August, 1977, James S. Rausch, Bishop of the Catholic Diocese of Phoenix, spoke at a UFW conference in Fresno, California. The Bishop termed the UFW and the leadership of Chavez "One of the most significant social movements in the entire history of the United States." Comments were directed, in part, to a balance between grower and employees, with major emphasis on social justice. "There is a genuine community of interest between the farm workers and enlightened growers." Farm workers "cannot afford to go it alone or to concentrate on their own problems to the neglect of those larger economic and political issues which only a united labor movement can effectively deal with." Support for the UFW was clear: "Now that you have established a limited but permanent base in California, it is important that you reach out as soon as possible to organize the great mass of unorganized farm workers in other states as well."[47]

Before 1977 ended, however, Cesar Chavez had drawn criticism from the religious community nationwide. Chavez had visited the Philippines, and many denominations had considered the government of its president Ferdinand Marcos to be oppressive to its people. As a consequence, complaints were made by various groups, including the National Council of Churches and the United States Catholic Bishops' Conference because the Chavez visit could have been interpreted as an endorsement of the Marcos government. Some stated they would withhold support from the UFW until Chavez clarified his position. Chavez defended his visit by pointing out that he had met with several dozen Philippine labor and peasant leaders, and had asked President Marcos to allow free national elections.[48]

ILLEGAL ALIENS

The year 1977 was characterized by greater attention given in the press to Mexican illegal aliens working in the fields. An article by an Arizona Republic political editor indicated that many of the charges by labor supporters at the time of the passage of the Arizona act had not changed.[49]

Indeed, with an apparent increase in the number of illegal immigrant workers, it would appear that conditions may have deteriorated. During the mid-1960s, as many as two hundred labor camps existed in Maricopa County to house migrant farm workers. These camps were occupied in part by Mexican braceros--legal "green card" workers--but mostly by United States citizens. At the time of writing, the writer, Wynn, was able to identify six labor camps in the county. Two explanations were given: (1) few United States migrant workers remained because of the low pay for agricultural work and the availability of other income opportunities, and (2) the void created by the absence of United States workers was being filled mainly by Mexican nationals, many in the United States illegally. It was stated that these undocumented workers were living on growers' land in makeshift open-air, cardboard shacks and bathing in irrigation ditches. Without permanent housing it was more difficult for the United States Border Patrol to locate the workers, an advantage for both the grower and the illegal alien.

Health and sanitation laws require shelter for workers and permit inspection of these facilities. Unsuccessful attempts were made during the late 1960s and early 1970s to strengthen the laws. Housing facilities for farm workers were found to be inadequate, and indeed, nonexistent in some cases.

The issue is not easily resolved. The shortage of United States workers continues; Mexican citizens desire work in the United States; penalties imposed on the illegal alien are apparently worth the risk; and there are basically no penalties imposed on the grower who hires illegal aliens. Quotes from an article written nearly two years later are informative:[50]

> U. S. District Court judges in Phoenix have heard just about every excuse imaginable for a person being in this country illegally....They are seeking a better life. The first offense will get them deported.... Court records show they will be back, and this time they nearly always go to jail for a short time, get probation and then deported again.... The alien works here at country clubs, light industry and on farms....In July (1979), the border patrol arrested 3,310 persons in Arizona for alien violations...a 14 percent increase over July of last year.

A labor organizer stated in late 1977 that there were 6,000 illegal aliens in Maricopa County because not enough United States citizens were interested in receiving the $7 to $30 a day the aliens were receiving for farm work. The organizer acknowledged that growers in Arizona had attempted to recruit in Texas and California and as far away as Florida without any significant success.[51]

After two more years, the issues of recruiting and housing showed little change:[52]

> Last year (1978), the (Central Arizona Citrus Harvesters Association's) request for permission to hire aliens if U. S. citizens could not be found was turned down on grounds that the growers failed to meet housing standards and other Occupational Safety and Health Agency requirements.

Some improvement was noted:

> The growers' facilities have been inspected this year and they meet federal requirements.

THE MARICOPA COUNTY ORGANIZING PROJECT (MCOP)

During the latter half of 1977, farm labor activity was taken up by the Maricopa County Organizing Project (MCOP), a nonprofit corporation. Leadership for MCOP came in part from former employees of the UFW, although public statements by the group indicated the primary concern of MCOP was for the

protection of the workers rather than the formation of a labor union. However, it was ultimately ruled by Superior Court Judge Edward Rapp that MCOP was, by definition, a labor union. Support for MCOP was provided by the UFW. During the fall, Cesar Chavez spoke to striking MCOP pickets in the onion fields, promising financial and legal backing. Chavez also said he did not know when the UFW would again try to organize in Arizona because the union's energies were to be directed toward California workers.[53]

Arrowhead Ranch

One of the early activities of MCOP was a strike begun in October against Arrowhead Ranch near Glendale, where workers were harvesting green onions and grapefruit. Demands were for higher wages, up to $3 per hour, and for such basics as shelter, tents, blankets, and medical care, rest room facilities, and "accurate bookkeeping" of hours worked. Approximately one hundred field hands were on strike. Many admitted to the press that they were illegal Mexican aliens; some stated that they knew of no United States citizens among the two hundred field workers. Reporters were shown pay stubs of "social security-like numbers" and notations that social security taxes had been withheld from their pay checks. Such withholdings cannot be turned over to the federal government without social security numbers having been issued.

Representatives for the growers denied that illegal aliens were employed. However, it was determined that the United States Border Patrol "regularly" made suprise raids on the farm's labor camps. Border patrol officials stated that the "raids net hundreds of illegal immigrants annually." Strikers indicated that while they were in Mexico they had heard that "you can get a job" at Arrowhead Ranch.

Arizona Citrus Company

Arizona Citrus Company, owned by Bodine Produce Company west of Phoenix, and the adjacent Goldmar Ranch were also being picketed. The MCOP organizer said that most of the field workers were illegal aliens and that the working conditions were also highly inadequate. The organizer further stated that if MCOP's organizing efforts were successful, the UFW would be asked to accept Mexican memberships.[54]

Shortly after beginning the strike, MCOP filed suit in the United States District Court before Judge Carl A. Muecke to permit organizers to visit workers at the citrus ranches; they also requested a temporary restraining order to prevent the county sheriff's office and others from interfering with their organizing efforts.[55]

Fletcher Ranch

Farm workers identified as illegal Mexican immigrants charged that the border patrol destroyed their camp on the Fletcher Ranch, west of Phoenix. The border patrol stated that within the first ten days of the strike in the onion fields, raids on agricultural camp sites in northwest Phoenix had resulted in the arrest of over four hundred illegal aliens.[56] The United States attorney's office asked for a probe of the Fletcher Ranch incident to determine if the border patrol was in collusion with the growers to break up the strikes. However, as stated by the United States attorney, even if the Justice Department did find in favor of the workers, "a number of civil rights statutes state that the victim must be a United States citizen" to receive protection.[57]

Organizing activity expanded. By late October 2,500 to 3,500 field workers, including illegal immigrants, were reported to have struck nine green

onion farms west of Phoenix. Complaints were heard that only the most experienced could earn as much as $3 per hour, and that the growers were using child labor.[58]

VISTA Involvement

The situation became more complicated. Arizona Agricultural Employment Relations Board counsel charged that United States government vehicles assigned to Maricopa County Legal Aid Society had been used by a VISTA (Volunteers in Service to America) worker in support of the farm workers' strike at the Triple-T farm near Litchfield Park. The El Mirage Legal Aid Society deputy director and a founder of MCOP, denied that his office had been actively involved in the strike. A number of complaints were made by growers that government vehicles in caravans had gone from farm to farm encouraging worker support of the strike. The executive director of ACTION (the VISTA parent organization) acknowledged that such use of the vehicles, if true, was improper. Spokesmen for the Legal Aid Society denied that the vehicles had been used to support the strike, that their presence was to assure that the strikers avoided legal troubles. It was also charged that MCOP had used secretarial help and office machines from the Legal Aid Society. The response was that secretarial assistance was not provided, but anyone receiving Legal Aid support could use the copier machines without cost. As a result of the charges, Legal Aid Society funds were withheld by the Maricopa County Bar Association.[59]

The Arizona Agricultural Employment Relations Board obtained a restraining order through Maricopa County Superior Court from Judge Harold Martin to force workers back to work. Picketing was to be limited to five pickets per farm and strike supporters were prohibited from encouraging a strike.[60] Judge Charles Hardy of the Maricopa County Superior Court issued a ten-day restraining order also based on a complaint filed by General Counsel for the board against MCOP to restrain them from going on strike without a vote of the workers, and from coercing workers to leave the fields. A maximum of ten pickets were allowed on any one farm.[61]

Tanita Farms

Ultimately strike activities of MCOP extended to workers in cucumbers, sweet potatoes, and beets, in addition to onions and citrus. In less than a week in two separate incidents, twenty-two pickets including one woman and four juveniles, were arrested for violating the temporary restaining order at Tanita Farms northwest of Phoenix. In one incident, contrary to the limit of ten pickets per farm, three hundred pickets had formed. The sheriff's department was asked how it determined who should be arrested when the number of pickets exceeded the allowable number. The answer was that officers would not select the elderly or children, but rather "males who look like they can handle the situation." Following the second arrests at Tanita, one hundred demonstraters under MCOP leadership marched through downtown Phoenix to emphasize their complaints that sheriff's deputies had beaten one of the male strikers and his wife, and had left their children in the fields after the couple was arrested.[62] The federal court determined that a maximum of three MCOP organizers could visit Tanita Farms during nonworking hours. Previously, organizers had been prevented from entering the farm and the MCOP executive director had been arrested for trespassing. MCOP was cautioned in the order not to harass, intimidate, or obstruct farm workers.[63] Before the month ended, another dozen pickets were arrested for alleged picketing violations and were released on bail ranging from $224 to $1,126.[64] MCOP charged that the number of pickets allowed was purely arbitrary and had been merely the sheriff's interpretation of the court order.

Strike-related Activity

The impact of the strike was attested to by at least one grower. A representative for B and T Farms said that workers were in fear of going into the fields to work because of the pickets, and as a consequence, onion production was 75 percent below normal.

As the strike continued, five striking onion workers and an MCOP organizer filed six civil suits against four growers in Maricopa County Superior Court. Claims included assault, gun shots, attempts to run over workers with a tractor and a truck, and false and deceptive labor recruitment. MCOP announced that it was requesting a federal investigation into charges that there was a conspiracy between the Arizona Agricultural Employment Relations Board and the Maricopa County Sheriff's Department to suppress workers' rights to strike and to suppress their civil rights.[65]

A report was given of a "political action" breakfast at which the General Counsel for the agricultural labor board was "in a popular position at the workshop" when it was indicated that he said the MCOP had "no authority to represent the workers." A more accurate interpretation would be that there was no evidence, such as a worker election, to support the conclusion that MCOP represented the workers.

Within two weeks of the picketing on Tanita Farms, another group of pickets was arrested. A spokesman, identified as a representative of the United Farm Workers, stated that the picketing was being conducted by the UFW, not by MCOP. This occurred within a month of the statement by Cesar Chavez that the UFW would not be involved in Arizona organizing for the foreseeable future. Because of UFW involvement, therefore, the UFW spokesman stated that the sheriff's department "refused to recognize the obvious fact that there is no restraining order at present limiting UFW supervised picketing." It was announced that MCOP would no longer be involved.[66]

Little activity by labor organizers was noted in Arizona until the following summer. It would be nearly a year before the public's attention was again directed to MCOP. In the meantime, items of national interest were occurring in relation to UFW activities.

Early in 1978, the United Farm Workers announced that it was ending its boycott of farm products: iceberg (head) lettuce begun in 1970, table grapes begun in 1973, and Gallo wine begun in 1973. Chavez explained that the boycotts were no longer necessary because the California agricultural labor law, by providing for the secret ballot in recognition elections, had proven effective for the UFW. At the time, the UFW had contracts with 117 growers and were negotiating one hundred more.[67]

The new year brought a different kind of demand from farm workers in Arizona. Heavy rains during the winter idled workers because of the wet fields. An estimated two hundred demonstrators, some bearing United States, Mexican, and UFW flags, paraded at the state capitol in Phoenix in an appeal to Governor Wesley Bolin for disaster relief funds so that rent and other expenses could be paid.[68]

CONSTITUTIONALITY

United States District Court

The major state labor news item in 1978 was the determination by the three-judge federal panel of the United States District Court--Judges Carl A. Muecke and Walter E. Craig, from Phoenix, and Senior United States Circuit Judge John F. Kilkenny, of Portland, Oregon--in April, 1978, that the Arizona Agricultural Employment Relations Act was unconstitutional.[69] Issues considered were: the right to organize and enter into collective bargaining, arbitration during the cooling-off period, secondary boycotts, limits of entry onto grower property by union representatives, right to strike, and time periods for elections. As a consequence, the law

was determined to be "unconstitutional in its entirety."

The decision was a victory for the UFW which brought the suit. Cesar Chavez said: "With the decision, we can begin the process of organization in the state." Both state government and grower representatives sought to appeal the decision. The Arizona Farm Bureau expressed the desire that the decision be taken to the United States Supreme Court.[70] William Gibney, General Counsel for the Arizona board, stated that the "decision was written poorly...hastily." The state claimed that the United States District Court should not have heard the UFW's petition in the first place. Attorney General Jack LaSota announced that his office would appeal the ruling, stating that the ruling was "vague."[71] Rex Lee, Dean of the Brigham Young University Law School, was retained to represent the state in its appeal. Lee was a former Phoenix attorney and had been involved in drafting the legislation for the Arizona Agricultural Employment Relations Act initially. As part of its decision, the court enjoined the board from further activities; the legislature, consequently, cut funds from the board, causing the laying-off of the investigator and executive assistant, leaving the General Counsel and secretary to carry out administrative duties.

United States Supreme Court

By early October, the United States Supreme Court had agreed to hear arguments on the constitutionality of the Arizona law. The Arizona Advocate reviewed key issues in the arguments.[72]

The Supreme Court determined that the case was not "hypothetical, abstract, or generalized," even though no specific instance of the act's enforcement against the UFW was before the Court. The Advocate concluded that the only provision that had truly pervasive concerns was the one relating to election procedures. In that courts were not provided a certain time period for acting on election petitions, if the Supreme Court agreed that delays violate the employees' due process rights, such a decision would probably be fatal to the entire act. The reasoning was that without properly chosen representatives, or without any representatives at all, the other provisions are superfluous.

It was General Counsel Gibney's conclusion that the court's major objection was to the provision in the act calling for criminal penalties for violation of the act without distinguishing "willful" violations.

CHALLENGING THE UFW

With the district court decision, the UFW began picketing near Yuma in the melon fields as well as in the Imperial Valley and near Blythe in California. It had been some time since the UFW had attempted organizing in the Yuma area, and, at that time, the Teamsters had generally been more successful. It was Teamster-organized fields that the UFW was reportedly picketing. Yuma County Superior Court Judge B. L. Helm had imposed a temporary restraining order on behalf of two growers limiting the number of pickets to eight for every forty acres and requiring the pickets to be fifty feet apart. Following the court order, five pickets were arrested after reports of aggravated assault with the use of rocks and clubs, and trespassing by twenty-five pickets into the growers' fields. The judge found sufficient evidence to conclude that workers were being intimidated by the UFW pickets. Consequently, it was ruled that all picketing, massing, and assembly would be prohibited.[73] On appeal, United States District Judge Muecke refused to block the injunction.[74]

Chavez Conviction

The Superior Court order was challenged almost immediately with considerable publicity. The UFW informed the news media and the sheriff's office that the order banning picketing would be

violated. Cesar Chavez and his wife Helen began picketing and were arrested. They were promptly released by Judge Helm although the Chavez couple refused to pay the $300 bond set for each of them. Chavez explained his reason for defiance of the court order: "It is the most restrictive injunction I have seen in twenty years. It is totally unconstitutional."[75] Ultimately, a six-month probation imposed on the couple was also violated. This, in turn, was appealed on the grounds that the injunction was too broad; therefore, there was a right to disobey an illegal order of the court. A three-judge panel of the Arizona Court of Appeals upheld the criminal contempt conviction of both defendants. The court stated, by ignoring the terms of the injunction, the defendants "were placing themselves above the law and presuming to act as judges in their own case.... The doors of this court are open. If they thought the injunction was too broad, they could easily have sought review by appeal or by special action as to alternate remedy to willful disobedience."[76]

Western Growers Association

Other challenges were directed at the United Farm Workers. The Western Growers Association brought a $200 million suit against the UFW in Monterey County, California, Superior Court on behalf of two growers and a produce shipper. The suit resulted from organizing activities begun in September, 1977. Physical violence and property damange was charged; the California Agricultural Labor Relations Board ordered the UFW to cease its picketing activities. In one situation it was charged that one hundred UFW pickets entered a tomato field, damaging part of the crop, vandalizing workers' cars and farm equipment, and preventing the shipment of crops from the fields. Prior to filing the suit, a contract had been signed between the UFW and the growers.[77]

MCOP

Challenges against the UFW came from within the labor movement as well. In October, the Maricopa County Organizing Project (MCOP) complained in correspondence to various individuals and groups in Maricopa County that the UFW "threatened to call the border patrol and deport Mexican national workers with seniority rights unless these workers either 'join the UFW or get...out of Arizona.'" MCOP reaffirmed its intent to be a labor-civil rights organization concerned with improving the economic and life style of the workers, without intending to become a labor union. MCOP acknowledged the earlier support from UFW, but found that in a short time the UFW began a strategy to force MCOP out of existence because MCOP was seen as a competitive labor union. The UFW denied the accusation. Each group charged the other with taking guns into the fields, and the UFW admitted that they had reported gun-carrying MCOP members to the sheriff's office.[78]

Labor criticism of the UFW received national attention.[79] Charges included complaints that the UFW monopolized farm labor situations and interfered with other labor organizations in their attempts to obtain financial aid from government agencies and private foundations. It was reported that "a number" of "senior aids" left the UFW in the previous two years with complaints that Cesar Chavez refused to allow dissent and would not share authority. Gustano Gutierrez, head of MCOP, had been Arizona State Director for the UFW during the early 1970s. He indicated that the UFW was extremely centralized and "very dictatorial," agreeing with a Texas Farm Worker representative, also a former UFW staff member, that there was no concept of a local union structure within the UFW, with all decisions coming from Chavez. Representatives of both MCOP and the Texas group stated that the UFW attempted to prevent them from establishing independent farm worker organizations.

DISCONTENT IN THE FIELDS

As the 1978 season progressed, MCOP was again active in the fields, with continued problems in the courts. Lupe Sanchez, an executive director for MCOP, was arrested for entering a ranch after Superior Court Judge Sandra O'Connor issued a temporary restraining order against Sanchez and MCOP. When the case came before Superior Court Judge Robert J. Corcoran to consider a permanent restraining order, Sanchez testified that approximately thirty workers at McGarity Ranch in northwest Phoenix asked for his aid. Sanchez said he was invited to the grove when one of the workers complained that he had been fired for asking for his pay at the end of the day so that he could purchase food. Sanchez said the workers were mostly Mexican citizens. According to testimony, they received about $1.65 an hour, slept under trees in the citrus groves, and received no medical attention.[80]

Striking the Lettuce Growers

In January, 1979, the UFW began organizing campaigns in the lettuce fields in Arizona and California. In California, contracts had expired on January 1, but work continued until later in the month. The UFW said that farm-by-farm votes were conducted to determine whether workers wanted to strike or continue working under expired contracts.[81] The UFW sought a 40 percent increase in wages for hourly workers and a 50 percent increase for piece-work. Additionally, the Western Growers Association was asked to increase medical benefits and pension contributions. Growers in both Arizona and California were offering a 7 percent increase.[82] The UFW argued that while farm worker pay had increased 85 percent in seven years, inflation had increased 70 percent, resulting in little real gain for the workers.

In Arizona, one grower representative placed blame for the absence of a contract on a lack of cooperation by the UFW. It was stated that the company had contacted the union as early as the previous September, but a number of scheduled meetings were cancelled by the union. Local issues were not presented by the union, it was claimed, until after the strike had begun.[83]

In the Imperial Valley of California, 95 percent of the United States production of winter iceberg lettuce is grown on 40,000 acres. About one-third of the production in the area was affected by the strike.[84] It was reported that 3,000 field workers were idled, 150 in Arizona. While some lettuce was rotting in the fields, the lengthy three-month harvest period reduced some of the pressure on the growers.

A nationwide boycott was called on Chiquita bananas, a product of United Brands, Inc. United Brands owned Sun Harvest Company, one of the first of two farms struck by the UFW. At Sun Harvest's 700-acre lettuce operation on the Salt River Indian Reservation, work was stopped by about sixty pickets.

Yuma Activity

In the Yuma area, County Superior Court Judge William W. Nabours issued a temporary restraining order against UFW strikers at two growers, an operation of Sun Harvest and Bruce Church, Inc. Sun Harvest representatives stated that ninety to one hundred UFW strikers on several occasions had verbally abused workers, mainly wives and children of neighboring ranchers. The court ruling stated that twenty-five pickets could operate at Sun Harvest, but they were not to intimidate workers in the fields or threaten or use abusive language. At Bruce Church, the UFW was not to trespass or block entrances, could not interfere with labor buses, and must not threaten bodily harm or property damage. Striking workers were ordered to leave the ranches, but when any group went on strike they were permitted to send two representatives to other crews informing them that they were going on strike.[85] As had been the situation in previous years, the

degree of violence was greater in California, mainly between striking and nonstriking workers. The situation was highlighted by the shooting death of one striker in the Imperial Valley in February.

By early March, the Yuma strike had spread to eight farms. Harvesting ceased with 700 workers of the job, mostly Mexican nationals with legal permits. Cesar Chavez spoke at a strike rally, asking Yuma area farm workers to join strikers in the California Imperial and San Joaquin Valleys as well as in the Yuma area.

It had been noted that in 1972 Indian officials resisted union organizing on reservation land. The resistance continued. Chavez questioned the legality of prohibiting picketing on reservation land leased to non-Indians.[86]

Three hundred pickets, most reportedly from California, arrived by bus at the Wellton-Mohawk Valley near Yuma. Pickets were limited by court injunction to twenty-five per field, with groups separated by a least a quarter of a mile. Only five pickets could be within fifty feet of an entrance or exit to a field. No workers were reported to have left the fields as a result of this organizing effort. Company representatives said that the workers were hired as replacements for those who were on strike.[87]

In May, the UFW announced plans to extend the Yuma organizing activities to four melon growers. This action was to be in conjunction with planned walkouts in the El Centro and Blythe area fields in California.

The lettuce strike continued through the summer. A report from Salinas, California, in mid-August stated, "Cesar Chavez (arrived) weakened by a fast but buoyed by 12,000 cheering supporters at the end of a twelve-day march..."[88] At the time it was reported that growers were offering $4.50 per hour, and the union was demanding $5.00 per hour plus benefits. The UFW had struck six farms in Salinas and the Imperial Valley, and claimed to have authorization from workers to strike an additional fifteen farms. Growers reported that they were continuing harvesting and experienced little financial trouble as a result of the strike.

Settlement

On the last day of August, 1979, the seven-month strike was ended and tentative agreements were begun. The following table outlines the reported pay issues:

AGRICULTURAL PAY ISSUES*
(1979)

Position	1979 Pay	UFW Demands	Agreement 1980	Agreement 1981
Laborers	$3.70	$4.25	$5.00	$5.71
Irrigators	3.75	6.00	5.20	5.90
Tractor drivers	4.42	8.25	6.10	7.77
Piece-rate workers	.57 per carton	50% increase	32% increase	46% increase

*per hour rate

Referring to the Sun Harvest agreement, Chavez stated that it was "a victory for both the union and the company." Sun Harvest's vice president said, "We think we have a competitive contract," but warned that increased wages coupled with increased fuel costs could make California lettuce less competitive with eastern and midwestern products. Within a week, five growers had signed agreements and another two dozen were in negotiations.[89]

UNITED STATES SUPREME COURT RULING

Of greater significance to long-run agricultural industrial relations in Arizona, however, was the United States Supreme Court reversal of the lower federal court ruling. The high court in effect upheld the Arizona Agricultural Employment Relations Act.[90]

In January, 1979, the Supreme Court

began hearing briefs on the charge that the Arizona act was unconstitutional. Sixty-one groups, within and outside the state of Arizona, presented briefs as "friends of the court." In support of the suit were various service, labor, and religious groups; the act was defended mainly by grower representatives. Much of the legal work for the UFW was provided by the California American Civil Liberties Union.[91]

When the three-judge United States District Court ruled on the act, they found problems with five specific provisions, subsequently determining that the entire law was unconstitutional. On two of the issues--union access to workers on grower property and compulsory arbitration--the Supreme Court stated that the federal panel had no jurisdiction. The Court agreed that the act was ambiguous on these two points, but not unconstitutional. Because of the ambiguity, there was the possibility that either the board or the courts might misinterpret the law, with the potential of unconstitutionality. However, until such time, no action could be taken by the federal court.

On two issues--consumer boycotts and criminal penalties for violation of the law--the high court agreed that they did pose federal constitutional questions but must first be considered by the Arizona courts. The union did not test the law on these issues; therefore, there was no case or controversy. Because on the surface there was nothing wrong with the law on these issues, it will be necessary to see how they are interpreted in practice.

On the fifth and final issue, the court concluded that the election procedures of the act were not a constitutional issue. States are not required to provide for elections: therefore, since the provision of some form of election was included in the act, this provision was better than the complete omission of election procedure.

The United Farm Workers' reaction to the Court decision was highly negative. Cesar Chavez stated that the ruling could hamper union organizing of farm workers throughout the United States. Marc Grossman, assistant to Chavez, called the decision "Richard Nixon's revenge," stating that Nixon-appointed judges were politically inspired in their decision. Further: "There really hasn't been a farm worker movement in Arizona....the law effectively inhibited us from organizing in Arizona." Grossman indicated that any union strength in Arizona was the result of union representation among workers for California companies with agricultural interests in Arizona. A UFW attorney was quoted as saying that "it is premature to know what we intend to do" about the Court decision.

Among those who supported the act, some held reservations. Attorneys for some growers called for improvements and clarifications in wording of the act. Rex Lee who represented the state, while generally expressing satisfaction with the decision, agreed that there may be issues that will come before the courts for clarification. Arizona Attorney General Bob Corbin acknowledged the need for changes in the law and indicated that after discussion with the agricultural labor board, recommendations would be made to the legislature. The General Counsel of the board identified three issues for change: (1) removing criminal penalties; (2) providing grower injunctions for variable periods, rather than for the required ten days; and (3) clarifying union organizer accessibility to workers on grower property.[92]

THE FUTURE

As to the future, concerning the Arizona Agricultural Employment Relations Act, there were those within the UFW, among growers, and in state government who expressed the belief that the Supreme Court decision left more questions unanswered than were answered.

Most notable are the following issues: (1) union access to workers and the employer requirement to provide the union with materials, information, time, and facilities; (2) compulsory arbitration; (3) consumer secondary boycotts; (4) criminal penalties for violation of the law; (5) timing of recognition elections. Indeed, any of these may be changed by legislation.

For the United Farm Workers the issues are not settled, because the Supreme Court ruled in part on procedural grounds rather than on the merits of the law. The union would seem to be in a position to take its case to the Arizona Superior Court.

While UFW spokesmen have said there is little chance for the union to organize effectively under the law, the agricultural labor relations board received information that the unfair labor practice and election provisions would be widely tested by the union.[93]

The Teamsters union had given up jurisdiction over most of the field workers, providing approximately 300,000 potential members for the UFW in California alone. The proximity of Arizona to California and the numbers of growers with operations in both states should strengthen the union's position in organizing the nearly 40,000 seasonal farm workers in Arizona.

The UFW has taken a strong stand that the Arizona legislation is a handicap, if not a preventive, to union organizing. However, their concerns have not been tested.

Of significance to the farm labor movement is increasing mechanization in the fields.[94] As examples, the California legislature has estimated that of 112,000 harvest jobs in ten major crops in that state, 20,000 will be replaced by 1982 as a result of mechanization. Inroads in employment have already been noted in grapes, lettuce, and tomatoes. One grape grower with three hundred acres reported that his work force decreased from forty to two with the use of a $55,000 harvester; a $200,000 electronic tomato sorter allowed another grower to reduce the number of employees from one hundred to twenty-eight. Perhaps of greater significance to the union was the acknowledgment by some growers that their main reason for investing in new farm equipment was to avoid unionization. "I have gotten rid of all the troublemakers."

However, some growers reported that the UFW is increasingly more acceptable to them. One grower stated" "The UFW is finally starting to act more like a traditional industrial union and less like a cause."

With the Supreme Court decision, the recent contract negotiations, and support for legislative changes in the law from both labor and the state, labor-managmenent relations in Arizona agriculture are at a new plateau.

As a postscript, marked changes are being noted in activities of the Agricultural Employment Relations Board. For example, during the first seven years of the existence of the board and up until the Supreme Court ruling in August, 1979, there had been three representative elections and fifty unfair labor practice charges filed. Before the end of the 1979 calendar year, there were ten election and forty unfair labor practices charged.

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